

# **Noble County Circuit and Superior Courts**

## **Local Rules of Practice and Procedure**



# **LOCAL RULES OF PRACTICE FOR THE NOBLE CIRCUIT AND SUPERIOR COURTS**

## **CONTENTS**

<b>LR57-TR 00-1</b>	<b>Scope of Rules</b>
<b>LR57-TR 3.1-2</b>	<b>Withdrawal of Appearance by Counsel</b>
<b>LR57-TR 5-3</b>	<b>Tender of Orders</b>
<b>LR57-TR 53.5-4</b>	<b>Continuances</b>
<b>LR57-TR 79(H)-5</b>	<b>Appointment of Special Judges in Civil Cases</b>
<b>LR57-CR 00-6</b>	<b>Bail Policy and Schedule</b>
<b>LR57-CR 00-7</b>	<b>Criminal Discovery</b>
<b>LR57-CR 2.2-1</b>	<b>Initial Criminal Case Assignment</b>
<b>LR57-CR 2.2-2</b>	<b>Reassignment of Criminal Cases</b>
<b>LR57-CR 2.2-3</b>	<b>Appointment of Special Judges</b>
<b>LR57-AR 00-1</b>	<b>Noble County Court Services</b>
<b>LR57-AR 00-2</b>	<b>Problem-Solving Courts</b>
<b>LR57-AR 1-3</b>	<b>Transfer of Cases and Caseload Allocation Plan</b>
<b>LR57-AR 12-4</b>	<b>Facsimile Transmission Filings</b>
<b>LR57-AR 7-5</b>	<b>Removal of Exhibits</b>
<b>LR57-AR 15-6</b>	<b>Court Reporter Services</b>
<b>LR57-FL 00-1</b>	<b>Divorcing Parents Classes</b>
<b>LR57-FL 00-2</b>	<b>Right Relations Classes in Paternity Cases</b>
<b>LR57-JR 4-1</b>	<b>Procedure for Summoning Jurors</b>

### **Local Rules Relating To Practice in the Noble County Courts**

<b>LR57-TR 00-1</b>	<b>Scope of Rules</b>
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Except as otherwise provided, these rules govern the procedure and practice in all cases, including criminal, civil, and juvenile, filed or pending in the Noble Circuit and Superior Courts.

<b>LR57-TR 3.1-2</b>	<b>Withdrawal of Appearance by Counsel</b>
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- (A) All withdrawals of appearance of counsel shall be in writing and upon Order of the Court.

Permission to withdraw shall be granted only upon the following circumstances:

- (1) The filing of an appearance by new counsel for said client; or
- (2) Upon written motion to withdraw, which motion shall be served on the client at least ten (10) days prior to the date of the filing of the motion.
- (3) Upon other good cause found by the Court.

- (B) A motion to withdraw shall include the following:

- (1) The name and address of the Court where the case is filed;
- (2) The last known address of the client and the client's telephone numbers; and
- (3) Any hearing or trial dates and any pleading, discovery or other pretrial deadline dates.

## **LR57-TR 5-3          Tender of Orders**

All motions seeking an Order of the Court or a Notice of Hearing shall be accompanied by an original proposed order, sufficient copies for each party and person required to receive notice, and an extra copy for the Court.

## **LR57-TR 53.5-4          Continuances**

- (A) Written notices: A Motion for Continuance, unless made on record during the hearing of the cause or otherwise specifically authorized by the Court, shall be in writing and signed. Such motion shall comply in all respects with T.R. 53.5 of the Indiana Rules of Trial Procedure.
- (B) Scheduling conflicts: A Motion for Continuance based on a scheduling conflict with another cause shall specify the Court, the case name, the cause number, the date the hearing or trial in both cases was set, and the type of conflicting hearing or trial.
- (C) Duty to confer: Before requesting a continuance the moving party shall confer with counsel for all other parties and with any parties appearing *pro se* to determine any objections and to ascertain dates for rescheduling when all parties are available. Such objections and alternative dates shall be reported in the motion for continuance.

## **LR57-TR 79(H)-5          Appointment of Special Judges in Civil Cases**

- (A) Cases involving a change of judge pursuant to Trial Rule 76

In the absence of an agreement as to the appointment of a particular special judge pursuant to Trial Rule 79(D) or an agreement to have the regular sitting judge appoint a special judge pursuant to Trial Rule 79(E), the regular sitting judge shall name a panel pursuant to Trial Rule 79(F) consisting, whenever possible, of the other judges, senior judges (if they are willing to accept such appointment) or magistrates from Noble County. If a sufficient number of Noble County judges, available senior judges, or magistrates do not exist, then a panel shall be named including the available Noble County judges, senior judges or magistrates together with judge(s), available senior judge(s) or magistrates from counties selected within the Judicial Administrative District of which Noble County is a member.

If none of the above methods produce a special judge, the regular sitting judge shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates<sup>1</sup> eligible under Trial Rule 79(J) from counties selected within the Judicial Administrative District of which Noble County is a member. The Court Reporter for the Noble Circuit Court shall (1) maintain the list of judges or magistrates from which the special judge is to be selected, and (2) keep a record of the next available judge or magistrate on the list.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

(B) Cases involving recusal or disqualification of a judge pursuant to Trial Rule 79(C)

In the absence of an agreement as to a particular special judge pursuant to Trial Rule 79(D) or an agreement to have the regular sitting judge appoint a special judge pursuant to Trial Rule 79(E), the clerk of the court shall select a special judge (on a rotating basis) from a list of judges or magistrates from Noble County. The Court Reporter for the Noble Circuit Court shall (1) maintain the list of the Noble County judges or magistrates from which the special judge is to be selected, and (2) keep a record of the next available judge or magistrate on the list.

If the above method does not produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates<sup>2</sup> eligible under Trial Rule 79(J) from counties selected within the Judicial Administrative District of which Noble County is a member. The Court Reporter for the Noble Circuit Court shall (1) maintain the list of judges or magistrates from which the special judge is to be selected, and (2) keep a record of the next available judge or magistrate on the list.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

*(Amended effective July 1, 2011)*

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<sup>1,2</sup>Not including those judges or magistrates who have previously declined appointment in the particular case for which a special judge is required.

## **LR57-CR 00-6      Bail Policy and Schedule**

(A) This rule supersedes all prior bail orders and schedules issued by the Noble Circuit Court, Noble Superior Court, Div. 1, and Noble Superior Court, Div. 2.

(B) The following bail schedule determines the presumptively reasonable bail that shall be imposed schedule does not apply when bond is otherwise set by the court.

Murder .....	Presumptively not bailable
Class A Felony .....	Set by the court at initial hearing (Guideline \$25,000.00)
Class B Felony.....	Set by the court at initial hearing (Guideline \$15,000.00)
Class C Felony.....	Set by the court at initial hearing (Guideline \$ 7,500.00)
Class D Felony.....	\$ 4,500.00
Misdemeanor.....	\$ 3,500.00
Domestic Battery .....	\$50,000.00

(C) Bail may be posted in any of the following ways:

1. Depositing cash or securities in an amount equal to the bail; or
2. Executing a bail bond with sufficient solvent sureties as required by Indiana Code 35-33-8; or
3. Executing a bond approved by the court secured by real estate located in Noble County, Indiana, where the true cash value as determined by the Noble County Assessor for tax purposes, less encumbrances, is at least equal to two (2) times the amount of the bail; or
4. Providing any other bond or surety as may be approved by the court.

(D) Notwithstanding Subsection (C) above, if the defendant is:

1. Charged with a Class D Felony or a Misdemeanor
2. Arrested without a warrant
3. A resident of the State of Indiana; and is
4. Not charged with a crime of violence involving personal injury or the use of a firearm,

then bail for the Class D Felony or Misdemeanor may also be posted by depositing ten percent (10%) of the amount of the bail with the Noble County Clerk or the Noble County Sheriff. The court reserves the right in its discretion to approve the posting of ten percent (10%) cash bail in all cases.

(E) Bail for individuals arrested without a warrant shall be determined by the bail for the highest count charged. Bail shall not be required for additional counts of equal or lesser potential punishment.

(F) Any cash bail posted shall be posted in the defendant's name only and shall be considered the personal asset of the defendant. Cash bail may be applied toward Noble County Court Services fees, probation user's fees, restitution, public defender fees, jail reimbursement, fines, costs, extradition fees, and any other lawful amounts as determined by the court. The remainder shall be released to the defendant when the personal appearance bond is released. The Sheriff shall advise any individual seeking to post cash bail for a defendant of these conditions; however, failure to so advise shall not constitute a waiver of these conditions.

(G) In addition to any cash bail posted, all applicable statutory fees shall be added to the amount of bail and are not included in the amounts listed above.

(H) Individuals arrested without a warrant for a Class D felony or a Misdemeanor may post bail according to this bail schedule.

(I) All individuals arrested without a warrant shall be brought before the court on the day of arrest if the court is in session and the person is booked into the Noble County Jail prior to 1 p.m. or on the next day the court is in session following the arrest.

(J) No individual shall be released or brought before the court while intoxicated.

- (K) Juveniles (individuals under 18 years of age) shall not be held to bail and shall be released to the recognizance of a parent or guardian, unless the crime charged is one listed in I.C. 31-30-1-4.
- (L) The arresting officer or the prosecuting attorney may seek a deviation from the schedule in the event of extenuating circumstances.

#### **LR57-CR 00-7 Criminal Discovery**

In all criminal felony and misdemeanor cases, ~~the~~ reciprocal pretrial discovery shall be available to both the State of Indiana and the Defendant upon the filing of a formal written request by either party, and such discovery shall be subject to the following:

##### **(A) State's Required Disclosure**

The State shall disclose to the Defendant the following material and information within its possession or control on or before thirty (30) days from the date of such request:

1. The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.
2. Any written or recorded statements and the substance of any oral statements made by the Defendant or by a codefendants, and a list of witnesses to the making and acknowledgment of such statements.
3. A transcript of those portions of grand jury minutes containing testimony of persons whom the State may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of the testimony.
4. Any reports or statements of experts, made in connection with the ~~particular~~ case, including the results of physical or mental examinations, ~~and of~~ scientific tests, experiments or comparisons.
5. Any books, papers, documents, photographs or tangible objects which the State intends to use in the hearing or trial or which were obtained from or belong to the Defendant or which the State intends to use at the hearing or trial.
6. The record of prior criminal convictions of the Defendant and any persons whom the State intends to call as a witness at a hearing or trial, which criminal record(s) shall be provided to the Defendant or his counsel on or before the date of the final pre-trial conference (or at least 20 days prior to the hearing or trial if there is no final pre-trial conference).
7. Any evidence which tends to negate the guilt of the Defendant as to the offense charged or which would tend to mitigate the Defendant's sentence if convicted.

The State may comply with this Order (1) in any manner it and the Defendant may agree to, or (2) by providing to the Defendant the material and information required by this rule, or (3) by notifying the Defendant that the material and information, described in general terms, may be inspected, obtained, tested, copied, or photographed at specified reasonable times and places.

**(B) Defendant's Required Disclosure**

The Defendant shall disclose to the State the following material and information within its possession or control on or before omnibus date:

1. The names and addresses of persons whom the defendant may call as witnesses.
2. Any books, papers, documents, photographs, or tangible objects which are intended to be used at a hearing or trial.
3. Any medical or scientific reports relating to the defendant or defendant's evidence which may be used at a hearing or trial.

**(C) Discovery Deadlines**

Except as may otherwise be ordered by the Court or otherwise provided for by this rule, discovery shall be provided within thirty (30) days of such request.

**(D) Objections to Discovery Order**

Any objections to the discovery order shall be filed on or before such discovery is due.

**(E) Certificate of Compliance Required, Deadline**

The State and the Defendant shall file with the Court Certificate of Compliance on or before the final pretrial conference.

**(F) Continuing Discovery Required**

Discovery is a continuing order through trial, and any discoverable material or information that comes to light by a party after discovery is initially provided or due shall be produced to the other party forthwith.

**(G) Sanctions**

The failure of either the State or the Defendant to comply in a timely manner with the requirements of this rule or any orders entered with regard to discovery may result in exclusion of evidence at trial or the imposition of other appropriate sanctions.

### **LR57-CR 2.2-1 Initial Criminal Case Assignment**

The Prosecuting Attorney of Noble County shall file cases according to the classification of the highest level of offense charged in the information or indictment. If the highest level of offense charged is murder, capital murder, Class A felony, or Class D felony, the case shall be filed in the Noble Superior Court, Div. 1. If the highest level of offense charged is a Class B felony or a Class C felony, the case shall be filed in the Noble Circuit Court. If the highest level of offense charged is a misdemeanor or infraction, the case shall be filed in the Noble Superior Court, Div. 2.

### **LR57-CR 2.2-2 Reassignment of Criminal Cases**

- (A) Where a change of judge is granted pursuant to Indiana Criminal Rule 12(B) or an order of disqualification or recusal is entered, the case shall be assigned to one of the following who shall serve as special judge: the two (2) remaining judicial officers in Noble County and the two (2) judicial officers sitting in Whitley County.
- (B) Each judge shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.

### **LR57-CR 2.2-3 Appointment of Special Judges**

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, such case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the judge presiding in a felony or misdemeanor case concludes that the unique circumstances presented in such proceeding requires the appointment of a special judge by the Indiana Supreme Court, the judge may request the Indiana Supreme Court for such appointment.

### **LR57-AR 00-1 Noble County Community Corrections Fee Schedule**

#### **Home Detention:**

Initial fee of \$50.00 in county and \$75.00 out of county

\$8.00/day for alcohol monitoring only in county, or

\$10.00/day for alcohol monitoring out of county

\$12.00/day for GPS monitoring in county, or

\$14.00/day for GPS monitoring out of county

\$16.00/day for GPS and alcohol monitoring in county, or

\$18.00/day for GPS and alcohol monitoring out of county

#### **CTP:**

After initial 30 days, \$30.00 per month unless on home detention



**Noble County Court Services Alcohol and Drug Program:**

Assessment: \$150.00  
Education Class: \$200.00  
Case Management: \$ 50.00  
Additional Cause Number: \$100.00

**Noble County Drug Court:**

Initial fee of \$100.00  
Monthly fee of \$50.00

**Community Correction or Pretrial Supervision/Program:**

\$30.00 per month unless on home detention

**MRT Classes**

\$15.00 per class

*(Amended effective August 1, 2013)*

**LR57-AR 00-2          Problem-Solving Courts**

Upon admission to a problem-solving court, the participant shall pay an initial user's fee of One Hundred Dollars (\$100.00) and a monthly user's fee of Fifty Dollars (\$50.00) for each month of participation, commencing with the second month of participation.

**LR57-AR 1-3          Transfer of Cases and Caseload Allocation Plan**

- (A) Pursuant to I.C. 33-5-37.5-13, a case may be transferred to another court within Noble County with the consent of the receiving court. Additionally, pursuant to I.C. 33-5-37.5-14, a judge of a court in Noble County may sit as judge of the Noble Circuit Court or Noble Superior Courts in any matter as if the elected Judge of that court with the consent of the judge of that court. Additionally, each judge may sit in the stead of the other judges of the courts in Noble County.
- (B) Criminal Cases:
  - 1. Criminal cases shall be filed as assigned under LR57 CR 2.2-1.
- (C) Civil Cases:
  - 1. All AD, AH, ES/EU, GU, TR, and pro se DR case types shall be filed in Circuit Court.
  - 2. All JD, JS, JP, JM, and MH case types shall be filed in Superior Court I.
  - 3. All SC, JC, and SC case types shall be filed in Superior Court II.

**LR57-AR 12-4      Facsimile Transmission Filings**

(A)    DEFINITIONS

For the purpose of this rule the definitions set forth in this paragraph shall apply:

1.      Cover Sheet means a descriptive initial page that accompanies an electronic facsimile transmission;
2.      Electronic Facsimile Transmission, commonly referred to as "FAX," means a method of transmitting and receiving information in paper medium over telephone lines or other forms of electronic transmissions;
3.      Original Document means the initially prepared written document or any counterpart intended to have the same effect by the creator; and
4.      Duplicate Document means a written counterpart of the original produced by the same impression as the original or from the same matrix or by digitized electronic transmission, readable by sight, which accurately reproduces the original.

(B)    The Noble Circuit and Superior Courts hereby authorize the filing of pleadings, motions, and other documents via electronic facsimile at facsimile machine telephone number (260) 636-3053 provided:

1.      such matter does not require the payment of fees by the Courts;
3.      the sending party creates at the time of transmission a machine generated log for such transmission; and
4.      the original document and the transmission log are maintained by the sending party for the duration of the litigation.

**LR57-AR 7-5      Removal of Exhibits**

After a case is decided and no appeals are taken, or after all appeals are completed, the Court Reporter for a Court may give notice in writing to the party introducing the exhibit providing a time within which the exhibit shall be removed from the custody of the Court Reporter. If the party notified does not recover the exhibit within the time stated, the Court Reporter may dispose of the same in any reasonable manner deemed appropriate by the Court Reporter.

**LR57-AR 15-6      Court Reporter Services**

(A)    Section One – Definitions

The following definitions shall apply under this local rule.

1.      A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

2. Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording and storing, and transcribing electronic data.
3. Workspace means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
4. Page means the page unit of transcript, which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedures 7.2.
5. Recording means the electronic, mechanical, and stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
6. Regular hours worked means those hours, which the reporter is regularly scheduled to work during any given workweek. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each workweek.
7. Gap hours worked means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
8. Overtime hours worked means those hours worked in excess of forty (40) hours per workweek.
9. Workweek means a seven (7) consecutive day week that consistently begins and ends on the same days through the year, i.e., Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
10. Court means the particular court for which the Court Reporter performs services.
11. County indigent transcript means a transcript that is paid for from county funds and is for the use by a litigant who has been declared indigent by a court.
12. State indigent transcript means a transcript that is paid for from state funds and is for the use by a litigant who has been declared indigent by a court.
13. Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.
14. Expedited transcript means a transcript, which is required to be completed within five (5) days.

(B) Section Two - Salaries and Per Page Fees

1. Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during regular work hours, gap hours or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours, i.e., monetary compensation or compensatory time off regular work hours. All per page fees paid for the preparation of transcripts shall be paid directly to the Court Reporter who prepared the transcript and shall be retained by that reporter.
2. The per page fee a court reporter may charge for the preparation of a COUNTY INDIGENT transcript shall be \$4.50. If a court reporter is requested to prepare an expedited transcript, the maximum per page fee shall be no less than \$7.00 where the transcript must be prepared within five (5) working days. However, this would be by approval of the presiding Judge. If a party requests a copy of a transcript, the fee per page shall be in the amount charged for copies by the Clerk of that Court.
3. The per page fee a court reporter may charge for the preparation of a STATE INDIGENT transcript shall be \$4.50. If a court reporter is requested to prepare an expedited transcript, the maximum fee per page shall be no less than \$7.00 where the transcript must be prepared within five working days. However, this would be by approval of the presiding Judge. If a party requests a copy of a transcript, the fee per page shall be in the amount charged for copies by the Clerk of that Court.
4. The per page fee a court reporter may charge for the preparation of a PRIVATE transcript shall be no less than \$4.50. If a court reporter is requested to prepare an expedited transcript, the maximum fee per page shall be no less than \$7.00 where the transcript must be prepared within five (5) working days. If a party requests a copy of a transcript, the fee per page shall be in the amount charged by the Clerk of that Court.
5. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent, or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.
6. No transcripts shall be prepared during the Court Reporters' regular hours or gap hours.

(C) Section Three - Private Practice

1. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- a. The reasonable market rate for the use of equipment, workspace and supplies.
  - b. The method by which records are to be kept for use of equipment, work space and supplies; and
  - c. The method by which the court reporter is to reimburse the court for the use of the equipment, workspace and supplies.
2. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

**LR57-FL 00-1**

**Divorcing Parents Classes**

- (A) Unless otherwise excused by the Court upon good cause shown, prior to the granting of a Petition for Dissolution of Marriage or Petition for Legal Separation by the Noble Circuit Court or Noble Superior Courts in cases in which the parties have minor children of the marriage, each spouse and each of the parties' school age children must attend not less than one session on Minimizing of Emotional Distress to Children of Divorcing Parents. Classes for parents, and those for children are different, each designed to serve the needs of the separate groups. School age is defined as: all children enrolled in a normal kindergarten class up to those in the 11th grade or age 17 or less. Children over 17 may attend at their option.
- (B) Each session will last approximately two (2) hours. The time and place of the program shall be determined by the agency conducting the program.
- (C) The moderators of each session will provide each attendee with a certificate of attendance which must be filed with the Court's Clerk prior to the Court's granting the Petition for Dissolution of Marriage or Petition for Legal Separation.
- (D) There will be no fee or charge made for attendance at these sessions by persons referred by the Noble County Courts.
- (E) Participants may not bring children to sessions denominated for parents only.
- (F) The parent taking a child to the child's session must remain in the building where the session is being held.

**LR57-FL 00-2                      Participation by Father and Mother in Paternity Cases in the Family  
Enrichment Series offered by Right Relations, Inc.**

Unless otherwise excused by the Court upon good cause shown, both the Father and Mother (also referred to herein as a “party”) in a paternity action shall register, pay for, attend, and successfully complete the Family Enrichment Series offered by Right Relations, Inc. Within ten (10) days from the date of the entry of a decree of paternity both Father and Mother shall contact Right Relations, Inc. at (260) 436-7578 and pre-register to attend the Right Relations’ Family Enrichment Series. In addition to contacting Right Relations to pre-register and then enrolling in the program in person at the next possible start date, both Father and Mother shall pay their respective registration and program fees when due and successfully complete the program. Absent good cause shown, no further hearings shall be conducted until the parties have successfully completed the program. Notice of this requirement to participate in the Family Enrichment Series shall be included in each decree of paternity filed with the Court. The Court shall on a weekly basis notify Right Relations, Inc. of the cause number and the names and addresses of the parties in each paternity action in which a decree of paternity has been entered, together with the date that the paternity decree was entered. Right Relations, Inc. shall notify the Court in the event that a party fails to register or successfully complete the program. If a party fails to enroll timely in the program or if a party fails to successfully complete the program, upon notification by Right Relations, Inc. the Court shall give notice to the defaulting party and a hearing shall be held to determine whether the defaulting party shall be held in contempt of the Court’s order for failing to abide by this rule.

**LR57-JR 4-1                      Procedure for Summoning Jurors**

- (A) In accordance with Rule 4(b) of the Indiana Jury Rules, the Courts of Noble County hereby select the two tier notice and summons options, which permits the Jury Administrator to send the jury qualification form and notice first, and the summons to prospective jurors at least one week before service.
- (B) The Judges of the Courts of Noble County hereby appoint and designate the Clerk of the Noble Circuit Court to act as the Jury Administrator.
- (C) The Jury Administrator shall perform the duties prescribed under the Indiana Jury Rules.
- (D) The pool of jurors serves as a Jury pool for the Circuit and Superior Courts in Noble County.
- (E) As set forth in Rule 4, not later than seven (7) days after the date of drawing the names from the master list, the Jury Administrator shall mail to each person whose name is drawn a jury qualification form and a questionnaire to be completed by each prospective juror.
- (F) Further, as set forth in Rule 4, upon order of any Court, the Jury Administrator shall summon prospective jurors for service.